

Honorable Brian D. Lynch
Hearing date: January 30, 2019
Hearing time: 9:00 a.m.
Response date: January 23, 2019
Chapter 7
Location: Tacoma

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:

DANICA NIKOLICH,

Debtor.

No. 17-40042

DECLARATION OF KATHRYN A. ELLIS
IN SUPPORT OF MOTION TO APPROVE
SALE OF PROPERTY FREE AND CLEAR
OF LIENS PURSUANT TO 11 U.S.C. § 363
(f)

Kathryn A. Ellis, declares and states as follows:

1. I am the Chapter 7 Trustee herein, have testimonial knowledge of the facts set forth in this declaration and am competent to testify thereto. I make this declaration in support of the motion to approve sale of the estate's interest in the property located at 4629 N Mullen St, Tacoma, WA, free and clear of all liens, pursuant to 11 U.S.C. § 363 (f).

2. This matter was filed on January 6, 2017 and I was appointed Chapter 7 Trustee. The debtor listed an ownership interest in the real property located at 4629 N Mullen St, Tacoma, WA. Accordingly, I engaged the services of Rich Kim with Lumin Brokers to list the property for sale and on May 15, 2018 this Court approved the application to appoint Rich Kim and Lumin Brokers as real estate agent and broker for the estate. The property was listed for sale in the amount of \$275,000.00 and a full price offer has been received. The current offer is the highest and best offer received to date.

3. The real property named above is purportedly encumbered by liens in the

**DECLARATION OF KATHRYN A. ELLIS IN SUPPORT
OF MOTION TO APPROVE SALE OF PROPERTY FREE
AND CLEAR OF LIENS PURSUANT TO 11 U.S.C. § 363 (f) - 1**

KATHRYN A. ELLIS, ESQ.
5506 6th Ave S
Suite 207
Seattle, WA 98108
(206) 682-5002

following priority and amounts:

Creditor	Recording Date	Approximate Amount Due
Pierce County Treasurer	N/A (Property Taxes)	\$16,294.74
The Bank of New York Mellon ¹	8/22/2005	\$778,830.88
Trojan Capital Investments LLC	7/18/2007	\$581,080.21
Internal Revenue Service	9/13/2010	\$192,899.08

I seek authority to pay the first position Deed of Trust in favor of The Bank of New York Mellon, and/or assigns, in the amount of approximately \$233,750.00, or such sum as may be negotiated or adjusted to accomplish a sale, in full satisfaction of its lien against this property, after all costs of closing, including real estate commissions, property taxes, excise taxes, statutory utility and/or HOA liens, and other closing costs, together with a buyer's premium to the estate in the amount of \$20,000. The second position Deed of Trust and third position federal tax lien will not be paid as they attach to no value beyond the first position lien.

4. A copy of the Purchase and Sale Agreement is attached hereto as Exhibit 1.

5. Attached hereto as Exhibit 2 is a true and correct copy of the short sale approval letter issued by Bayview Loan Servicing LLC for the first position Deed of Trust.

6. The property is listed in the debtor's bankruptcy schedules as her residence, however no Form B108 Statement of Intention has been filed in this proceeding to date. While the debtor is aware that the property is listed for sale, the debtor has not expressly consented to the sale, nor has she or her attorney communicated any objection to the same. On or about July 26, 2017, the debtor was arrested and charged with violations of RCW 69.50.401 (1) (unlawful

¹ "The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-AB4".

**DECLARATION OF KATHRYN A. ELLIS IN SUPPORT
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1 manufacturing, delivery, or possession with intent to manufacture or deliver, a controlled
2 substance) and RCW 69.53.010 (unlawful use of a building for drug purposes). While the
3 charges against the debtor were dismissed on January 18, 2018, the City of Tacoma has posted
4 no trespassing signs on the premises and boarded the same from access, classifying the property
5 as a derelict building pursuant to Tacoma Municipal Code 2.01 due to code violations that make
6 the property uninhabitable. Attached hereto as Exhibit 3 are true and correct copies of
7 photographs of the City's signage. In this case, the debtor lists no income from any source, let
8 alone income sufficient to pay for the necessary repairs to the property to make the same
9 inhabitable to satisfy the City of Tacoma, to pay the over \$16,000.00 in property taxes prior to
10 Pierce County conducting a tax foreclosure (no property tax payments have been made since
11 April 2017), to catch up the delinquency on her first mortgage that has been delinquent since
12 April 2009 (see Docket No. 33, page 4) prior to the foreclosure that the creditor has received
13 relief from stay to commence, nor to make payments on the second mortgage that similarly is
14 delinquent since November 2009 (see Proof of Claim No. 8).

15
16
17 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

18
19 DATED this 8th day of January, 2019 at Seattle, Washington.

20
21 By: /s/ Kathryn A. Ellis

22 Kathryn A. Ellis

23 C:\Shared\OneDrive - Kathryn A Ellis\Shared\KAE\Dox\TRUSTEE\Nikolich\2nd_sale_dec.wpd

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28 **DECLARATION OF KATHRYN A. ELLIS IN SUPPORT
OF MOTION TO APPROVE SALE OF PROPERTY FREE
AND CLEAR OF LIENS PURSUANT TO 11 U.S.C. § 363 (f) - 3**

KATHRYN A. ELLIS, ESQ.
5506 6th Ave S
Suite 207
Seattle, WA 98108
(206) 682-5002

EXHIBIT 1

**RESIDENTIAL REAL ESTATE CHAPTER 7 BANKRUPTCY TRUSTEE SALE
UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON**

Purchase and Sale Agreement

Date: June 13, 2018

MLS Number: 1309764

Property: 4629 N Mullen St

City: Tacoma State: WA Zip: 98407

Purchase Price: \$275,000

Earnest Money: \$2,750

Buyer: 253 Homes LLC

Co-Buyer: _____

Address: 2605 N Warner Street

Address: _____

City: Tacoma State: WA Zip: 98407

City: _____ State: _____ Zip: _____

Phone Number: (253) 232-5399

Phone Number: _____

E-Mail Address: anne@annecurryhomes.com

E-Mail Address: _____

Debtor: Danica Ann Nikolich

Co-Debtor: _____

Case Number: 17-40042

Title Holder: _____

Title Insurance: WFG National Title Company

Closing Agent: WFG National Title Company

Selling Firm: Emerald Guardian Realty

Listing Firm: Lumin Brokers

MLS Office Number: 3384

MLS Office Number: 5083

Selling Broker: Dakota Cruse

Listing Broker: Rich Kim

MLS LAG Number: 67081

MLS LAG Number: 47547

Address: 815 First Ave, Suite 184

Address: 5400 Carillon Point

City: Seattle State: WA Zip: 98104

City: Kirkland State: WA Zip: 98033

Phone Number: (206) 661-7900

Phone Number: (206) 888-8888

E-Mail Address: Dakota@EmeraldGuardianRealty.com

E-Mail Address: Sales@LuminBrokers.com

Represents: ☐ Buyer ☐ Seller ☐ Both

Represents: ☒ Seller ☐ Both

Initials:

Buyer: DL

Date: 6-13-18

Co-Buyer: _____

Date: _____

Selling Broker: DL

Date: 6/13/18

Initials:

Trustee: [Signature]

Date: 6/13/2018

Title Holder: [Signature]

Date: _____

Listing Broker: [Signature]

Date: 6/13/2018



RESIDENTIAL REAL ESTATE CHAPTER 7 BANKRUPTCY TRUSTEE SALE
UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON

This Agreement is entered into by and between Buyer and Seller in the capacity as the United States Bankruptcy Trustee for the Case. The parties acknowledge and agree that: (1) this is a sale by the Trustee in a pending bankruptcy and is subject to approval by the Bankruptcy Court; and (2) this may be a short sale for less than the secured amount owing against the property and if so would be subject to approval by all Lienholder(s). Buyer acknowledges that both approvals will require time and effort on the part of the Trustee and Lumin Brokers, and that neither approval can be guaranteed. All terms and conditions of this Agreement may be modified by the Bankruptcy Court and/or Lienholder(s) as a condition to sale approval. The final terms as approved by the Bankruptcy Court and/or Lienholder(s) shall be subject to Buyer's approval.

Buyer agrees to purchase and Seller agrees to sell the described property pursuant to the following terms and conditions:

1. **Property.** This Agreement is for the property commonly identified above and legally described on Exhibit A.
2. **Seller.** Seller is the United States Bankruptcy Trustee for the Case in the Bankruptcy Court for the Western District of Washington. Seller is acting in the capacity of a Bankruptcy Trustee only and not in any personal capacity. "Seller" also includes any successor or replacement Trustee, or any Trustee appointed after conversion of the Case to a different chapter of the bankruptcy code. The role of the Bankruptcy Trustee requires Seller to obtain the highest possible price for the property, and Seller is expressly authorized to take all actions that are appropriate or required for a Bankruptcy Trustee, including seeking additional offers while this Agreement is pending.
3. **Buyer.** "Buyer" includes Buyer and any Co-Buyer. This Agreement may not be assigned without Seller's written consent, which consent may be withheld for any reason at Seller's discretion.
4. **Arm's Length Transaction.** The Buyer and Seller warrant and represent that this is an "arm's length" transaction and no other relationships exist among the parties outside of this transaction with the exception of typical and lawful agency relationships.
5. **Purchase Price.** The Purchase Price shall be paid in cash at closing. Earnest Money shall be applied to the purchase price. Payment shall be made in a manner that funds are available no later than 12:00 p.m. on the closing date.
6. **Earnest Money.** Not later than 2 business days after mutual acceptance of this Agreement, Buyer shall deposit Earnest Money in the amount identified above to be no less than 1% of the purchase price and in the form of Cash, Check or Cashier's Check. The Earnest Money shall be delivered and payable to the Closing Agent. If the Earnest Money is refunded to Buyer for any reason, the cancellation fee for the title commitment chargeable to Seller shall be deducted from the refund and paid to Seller by the Closing Agent.
7. **Personal Property.** Except as set forth in writing, this transaction does not include any personal property in or on the Property that is not permanent attached to the property or a structure on the property. For example, appliances such as stoves, refrigerators and washing machines are not included unless they are built in. The sale also does not include any leased personal property. It shall be Buyer's duty to identify any leased property.

Initials:

Buyer: le

Co-Buyer: De

Selling Broker: De

Date: 6-13-18

Date: 6/13/18

Date: 6/13/18

Initials:

Trustee: [Signature]

Title Holder: [Signature]

Listing Broker: [Signature]

Date: 6/13/2018

Date: 6/13/2018

Date: 6/13/2018





RESIDENTIAL REAL ESTATE CHAPTER 7 BANKRUPTCY TRUSTEE SALE
UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON

8. **Closing Agent.** Seller may change the Closing Agent at Seller's discretion.
9. **Closing.** Title shall be transferred by a Trustee's Quit Claim Deed, without warranty as to title. Buyer and Seller shall each pay one-half of the escrow fee. Seller shall pay excise tax. Taxes for the current year shall be pro-rated. Buyer shall pay for oil in the oil tank. Buyer agrees to assume or pay any charges, assessments, dues, and lienable utilities not paid from proceeds of sale and agrees to reimburse Lumin Brokers at closing for any costs incurred or balances paid by Lumin Brokers for the purposes of the Buyer's inspections and/or to obtain payoff statements. The Closing Date shall be within the sooner of: (a) 30 calendar days after written approval by the Bankruptcy Court and all necessary Lienholder(s); or (b) 5 business days prior to expiration of any Lienholder approval or foreclosure date. "Closing" means the date on which all documents are recorded and the sales proceeds are available to Seller. If this transaction has not closed within 120 calendar days after mutual acceptance, then Buyer may serve a notice to terminate this Agreement unless Seller is able to close within 30 calendar days after receipt of such notice. Any such notice by Buyer shall be irrevocable.
10. **Possession.** Buyer shall be entitled to possession upon closing.
11. **Sale Information.** Listing and Selling Broker are authorized to report this Agreement (including price and all terms) to the Northwest Multiple Listing Associations or such other applicable listing association that publishes it to its members, financing institutions, appraisers and anyone else related to the sale. Buyer and Seller authorize all lenders, closing agents, appraisers, title insurance companies and other parties related to the sale, to furnish the Listing Broker and/or Selling Broker, on request, any and all information, and copies of documents concerning the status, progress and final disposition of financing, appraisal, closing, title condition, and any other matter concerning this sale, including Buyer's credit report.
12. **FIRPTA B Tax Withholding at Closing.** The Closing Agent is instructed to prepare a certification that neither Seller nor the Debtor in the Case is a "foreign person" within the meaning of the Foreign Investment in Real Property Act. Seller agrees to sign this certification. If Seller or the Debtor is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.
13. **Notices.** All notices provided for herein shall be in writing and may be delivered personally, by fax, by e-mail or mailed by registered or certified mail, return receipt requested. If delivered personally, by fax, or by e-mail, delivery shall be effective upon receipt. If mailed, delivery shall be considered effective 5 business days after deposit in such mail. The addresses to be used in connection with such correspondence and notices are those identified above or such other address as a party shall from time to time direct in writing.
14. **Computation of Time.** Any period of time set forth in this Agreement that ends on a Saturday, Sunday or federal holiday shall be extended to the next day that is not a Saturday, Sunday or federal holiday.
15. **Default and Earnest Money Forfeiture.** In the event the Buyer fails, without legal excuse, to complete the purchase of the property, the Earnest Money deposit made by the Buyer shall be forfeited to Seller as the sole and exclusive remedy for such default. Neither party shall have the right to bring an action for specific performance.

Initials:

Buyer: *ce*

Date: 6-13-18

Initials:

Trustee: *[Signature]*

Date: 6/13/2018

Co-Buyer: *[Signature]*

Date: 6/13/18

Title Holder: *[Signature]*

Date:

Selling Broker: *[Signature]*

Date: 6/13/18

Listing Broker: *[Signature]*

Date: 6/13/2018



RESIDENTIAL REAL ESTATE CHAPTER 7 BANKRUPTCY TRUSTEE SALE
UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON

16. **Applicable Law, Jurisdiction and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any proceeding involving this Agreement shall be in U.S. Bankruptcy Court for the Western District of Washington.
17. **Agreement to Purchase and Time Limit for Acceptance.** Buyer offers to purchase the property on the above terms and conditions. Seller has until 5:00 p.m. 5 business days after receipt of this offer to accept this offer. Acceptance is not effective until a signed copy hereof is actually received by Buyer or the office of the Selling Broker. If this offer is not so accepted, it shall lapse and the Earnest Money shall be refunded to Buyer.
18. **Counteroffers.** If a party makes a counteroffer the other party shall have until 5:00 p.m. 5 business days following receipt of the counteroffer to accept it. Acceptance is only effective by delivering a signed acceptance of the counteroffer to the other party or the office of the party's Broker.
19. **Commissions.** The Commission as published in the Northwest Multiple Listing Service may be modified by the Bankruptcy Court or the Lienholder(s) as a condition to final approval. The final commission as approved shall be divided per Northwest Multiple Listing Service Rules.
20. **Disclaimer of Warranties: As-Is Sale.** Seller is acting in the capacity of Bankruptcy Trustee and has no knowledge of or familiarity with the Property. This sale is exempt from the requirement to provide a Disclosure Statement as the Seller is a Bankruptcy Trustee. Buyer acknowledges that Buyer will not receive a Disclosure Statement. Seller has been unable to provide Listing Broker and Selling Brokers with information about the property and all information that has been provided comes from sources that cannot be verified such as county records. Buyer expressly warrants that Buyer is not relying on any statement or representation, written or oral, concerning the property made by Seller, Listing Broker or Selling Broker. Buyer agrees that Seller, Listing Broker and Selling Broker may rely on this paragraph as a complete defense to any claim concerning the condition or nature of the property, excepting only claims for intentional misrepresentation.
21. **Condemnation or Casualty.** Buyer may terminate this Agreement and obtain a refund of the Earnest Money if improvements on the Property are destroyed or materially damaged by casualty before Closing, or if condemnation proceedings are commenced against all or a material portion of the Property before Closing. Damage will be considered material if the cost of repair exceeds the lesser of \$5,000 or 5% of the Purchase Price stated in this Agreement. Alternatively, Buyer may elect to proceed with Closing, in which case at Closing Seller shall assign to Buyer all claims and rights to proceeds under any property insurance policy held by Seller with respect to the Property.
22. **Licensing.** ~~Lumin Brokers is licensed as both a real estate brokerage and a mortgage brokerage. All Bankruptcy Trustee Sale and Short Sale Facilitation shall be conducted pursuant to its status as a licensed mortgage brokerage and in compliance with RCW 19.146 and WAC 208-660.~~

Initials:

Buyer:

Co-Buyer:

Selling Broker:

Date: 6-13-18

Date:

Date: 6/13/18

Initials:

Trustee:

Title Holder:

Listing Broker:

Date: 6/13/2018

Date:

Date: 6/13/2018



RESIDENTIAL REAL ESTATE CHAPTER 7 BANKRUPTCY TRUSTEE SALE
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23. ~~Bankruptcy Trustee Sale and Short Sale Facilitation Fee Agreement. In consideration for its work in facilitating the Bankruptcy Trustee Sale and Short Sale of Property, Lumin Brokers is entitled to a facilitation fee equal to 1.5% of the final gross sale Purchase Price of the Property. This fee shall be paid ☒ by the Buyer at closing ☐ from the proceeds of sale. If paid by the Buyer, this fee shall be paid in cash at closing and is in addition to the Purchase Price. If this Agreement states that the fee shall be paid from the proceeds of sale and during the course of the transaction it is determined that it actually cannot be paid in this manner, for whatever reason, the Buyer can elect to agree to pay the fee under the above described terms or Seller may give notice terminating this Agreement and refunding Buyer's Earnest Money. This fee shall be fully disclosed on any and all settlement statement(s) in association with the transaction.~~
24. **Bankruptcy Trustee Carve Out/Buyer Premium.** To obtain Bankruptcy Court approval of this transaction, Seller will have to show that the sale will provide a benefit to the unsecured creditors in the Case. The amount of the Bankruptcy Trustee Carve Out/Buyer's Premium shall be calculated based on the Purchase Price as follows: 25% of the first \$5,000 or less, 10% of any amount in excess of \$5,000 but not in excess of \$50,000, 5% of any amount in excess of \$50,000 but not in excess of \$1,000,000, and 3% of any amounts in excess of \$1,000,000; the sum of which shall be no less than \$20,000. This fee shall be paid ☒ by the Buyer at closing ☐ from the proceeds of sale. If paid by the Buyer, the Buyer's Premium shall be paid in cash at closing and is in addition to the Purchase Price. If this Agreement states that the fee shall be paid from the proceeds of sale and during the course of the transaction it is determined that it actually cannot be paid in this manner, for whatever reason, the Buyer can elect to agree to pay the fee under the above described terms or Seller may give notice terminating this Agreement and refunding Buyer's Earnest Money. This fee shall be fully disclosed on any and all settlement statement(s) in association with the transaction.
25. **Bankruptcy Court Filing Fee.** Buyer ☒ shall ☐ shall not be responsible for paying the Bankruptcy Court Filing Fee. If paid by the buyer, the check shall be delivered to the Closing Agent not later than 2 business days after mutual acceptance of this Agreement. Buyer acknowledges and agrees to pay the sum of \$178 as a non-refundable fee to the United States Bankruptcy Court for the Bankruptcy Trustee's filing of a motion to approve sale free and clear of liens. In the event that the sale closes, Buyer shall be entitled to credit at closing for the fee. In the event that this sale does not close, for whatever reason, the fee shall be considered non-refundable and shall not be credited or repaid to the Buyer. The Closing Agent is instructed to release the check 7 business days after mutual acceptance of this Agreement to the Attorney for the Bankruptcy Trustee or the Bankruptcy Trustee if an Attorney has yet to be employed. However, if the Agreement is terminated prior to the Closing Agent releasing the check, the check shall be returned to the Buyer. If the sale closes, the Bankruptcy Trustee agrees to credit the Buyer the amount of the fee from proceeds of the Bankruptcy Trustee Carve Out/Buyer's Premium at closing.

\$181

INITIAL

Q 6-13-18

Initials:

Buyer: CE

Co-Buyer: DC

Selling Broker: DC

Date: 6-13-18

Date: 6/13/18

Date: 6/13/18

Initials:

Trustee: AL

Title Holder: AL

Listing Broker: AL

Date: 6/13/2018

Date: 6/13/2018

Date: 6/13/2018



RESIDENTIAL REAL ESTATE CHAPTER 7 BANKRUPTCY TRUSTEE SALE
UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON

26. **Condominium.** If the Property is a condominium, then (a) the following parking and storage spaces, if any, are included in the transaction: (i) parking space no. _____; and (ii) storage space no. _____, and (b) Seller agrees to deliver a Resale Certificate to Buyer following receipt of all necessary Lienholder(s) and Court Approval. Buyer shall be conclusively deemed to have approved said resale certificate unless within 5 business days following receipt thereof Buyer gives notice of disapproval thereof to Seller. If Buyer disapproves the Resale Certificate, the Agreement shall terminate, except for Buyer's indemnification obligations, and the Earnest Money shall be refunded to Buyer, less any deductions authorized under this Agreement.
27. **Contingencies.** This Agreement subject to the following contingencies:
- a. **Financing.** This offer ☒ is ☐ is not contingent upon Buyer obtaining a ☐ Conventional 1st ☐ Conventional 2nd ☐ VA ☐ FHA ☐ Home Equity Line of Credit ☐ Rural Development ("RD") ☒ Other purchase loan. If this Agreement is contingent upon Buyer obtaining financing, then Buyer agrees to obtain preliminary approval, in good faith, within 5 business days after mutual acceptance of this Agreement, for a market rate loan to pay the balance of the purchase price. If preliminary approval is not received within 5 business days, this Agreement shall terminate, and Seller shall be entitled to the Earnest Money. Subject to Lienholder(s) and Bankruptcy Court approval, Seller agrees to pay up to 0 _____ % of the purchase price, which shall be applied to Buyer's Loan(s) and settlement costs, including, but not limited to prepaids, loan discount, loan fee, interest buy down, financing, closing, or other costs allowed by lender. If Buyer obtains an FHA, RD, or VA loan, Seller shall also pay for that portion of Buyer's Loan and settlement costs that the Lender is prohibited from collecting from Buyer under FHA/RD/VA regulations. If Buyer obtains a VA loan, Seller shall also pay the full escrow fee for the closing of this Agreement. Buyer represents Buyer has sufficient funds to close this sale in accordance with this Agreement, and is not relying on any contingent source of funds or gifts unless expressly set forth elsewhere in this Agreement.
- b. **Lead Based Paint and Hazards.** Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Seller of any interest in residential real property is required to provide the Buyer with any information on lead-based paint hazards from risk assessments or inspections in the Seller's possession and notify the Buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase. If the Property was built before 1978, Buyer acknowledges receipt of the Lead based Paint pamphlet as required by law. Seller ☐ has ☒ has no knowledge and of lead-based paint and/or lead-based paint hazards in the housing. Seller ☐ has ☒ has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.
- c. **Lienholder(s) Approval.** This Agreement is subject to approval by all parties with security interests in the Property. Buyer acknowledges such approval may be conditioned on modification of the terms of this Agreement.

Initials:

Buyer: JS

Co-Buyer: _____

Selling Broker: JD

Date: 6-13-17

Date: _____

Date: 6/13/18

Initials:

Trustee: [Signature]

Title Holder: _____

Listing Broker: [Signature]

Date: 6/13/2018

Date: _____

Date: 6/13/2018



RESIDENTIAL REAL ESTATE CHAPTER 7 BANKRUPTCY TRUSTEE SALE
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- d. **Court Approval.** All aspects of this transaction are subject to approval by the Bankruptcy Court and to any restrictions, conditions or procedures imposed by the Bankruptcy Court. Seller's obligation to close is subject to approval of the Agreement by the Bankruptcy Court and compliance with applicable bankruptcy laws, rules and regulations. Seller will verify to Seller's satisfaction that the transaction would not have adverse tax consequences for the Debtor or the Bankruptcy Estate. The Seller will apply to the Bankruptcy Court for approval of the sale set forth herein as soon as reasonably practical. Buyer acknowledges such Bankruptcy Court approval may be conditioned on modification of the terms of this Agreement. Further, if the Trustee receives a superior offer on the property prior to the Bankruptcy Court hearing, the Bankruptcy Trustee may accept such offer contingent upon approval of the Bankruptcy Court and request that the Bankruptcy Court accept the superior offer. However, if this Agreement is the first Agreement the Seller has accepted regarding the subject property, the Seller, subject to Bankruptcy Court approval, hereby agrees that the Buyer may match the proposed purchase price of any third party offer. Promptly after receiving a third party offer, the Seller will notify the Buyer of the existence and terms of the third party offer. Buyer may then notify the Seller in writing, within 1 business day of receipt from the Seller's written notice of the third party's offer, that the Buyer will meet or exceed those terms. Price increases must be in increments of not less than 1 percent of the original offer. If an offer is received within 1 business day of the Bankruptcy Court hearing date, the Bankruptcy Court may have the proposed purchasers submit in writing their last, highest, and best offers at the hearing to approve the sale. This provision describes the procedures that Seller is required to follow, and those procedures are not subject to modification by agreement of the parties.
- e. **Buyer's Acceptance of Modifications.** Upon receipt of final approval of this Agreement, Seller shall provide Buyer with written notice of the approval and the final terms as approved. Buyer's duty to close is contingent upon Buyer's satisfaction with any modified terms of the Agreement as approved by the Lienholder(s) and Bankruptcy Court. This contingency shall be deemed satisfied unless Buyer disapproves the final approval in writing by 5:00 p.m. 5 business days after receipt of Seller's notice of final approval.
- f. **Title Insurance.** This offer ☒ is ☐ is not contingent upon Buyer's review of a preliminary commitment for title insurance, together with easements, covenants, conditions and restrictions of record, which are to be obtained by Buyer, to determine that they are consistent with Buyer's intended use of the Property. Buyer shall have 5 business days from the date of mutual acceptance within which to advise Seller in writing of Buyer's disapproval thereof, stating with specificity the basis for any objections. If Buyer indicates objections to the status of title, then this Agreement shall terminate, except for Buyer's indemnification obligations, and the Earnest Money shall be refunded to Buyer, less the cancellation fee for the title commitment and other deductions authorized under this Agreement.

Initials:

Buyer: 12

Co-Buyer:

Selling Broker: DC

Date: 6-17-18

Date:

Date: 6/13/18

Initials:

Trustee:

Title Holder:

Listing Broker:

Date: 6/13/2018

Date:

Date: 6/13/2018



RESIDENTIAL REAL ESTATE CHAPTER 7 BANKRUPTCY TRUSTEE SALE
UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON

- g. **Inspection.** This offer ☒ is ☐ is not contingent upon Buyer's subjective satisfaction with inspections of the Property and the improvements on the Property. If this offer is contingent, the Buyer has 5 business days from the date of mutual acceptance to inspect the premises. Unless the Buyer provides Seller with notice within said 5 business days that the property is not acceptable, the inspection requirement will be deemed to be waived at 5:00 p.m. 5 business days from mutual acceptance. Notwithstanding the foregoing, if the financing institution requires an additional inspection, Seller agrees to permit such inspection. The Buyer will pay all costs and fees associated with such inspections and Seller shall have no liability therefor. Buyer will return the property to its original condition after said inspection or test. The Buyer will indemnify, defend and hold the Seller, its officers, agents and attorneys harmless from all claims arising out of Buyer's inspection or testing of the property. Seller will perform no repairs as a result of Buyer's inspection, and the inspection is solely for Buyer's information and determination whether to terminate this Agreement.

This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, express or implied, and all negotiations or discussions of the parties, whether oral or written and may not be amended except by documents signed by both parties. There are no warranties, representations or agreements among the parties in connection with the subject matter hereof except as set forth herein.

Signatures:

Buyer:

Date:

Co-Buyer:

Date:

Selling Broker:

Date:

Signatures:

Trustee:

Date: June 13, 2018

Title Holder:

Date:

Listing Broker:

Date: June 13, 2018

Initials:

Buyer:

Co-Buyer:

Selling Broker:

Date: 6-13-18

Date: 6/13/18

Date: 6/13/18

Initials:

Trustee:

Title Holder:

Listing Broker:

Date: 6/13/2018

Date: 6/13/2018

Date: 6/13/2018



EXHIBIT "A"
LEGAL DESCRIPTION

LOTS 9 AND 10 IN BLOCK 9 OF WEST TACOMA, W.T., AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 24, RECORDS OF PIERCE COUNTY AUDITOR;

TOGETHER WITH THE VACATED SOUTH 10 FEET OF NORTH 47TH STREET ATTACHED THERETO AND ABUTTING THEREON, VACATED BY ORDINANCE NO. 18173 OF THE CITY OF TACOMA AND RECORDED UNDER AUDITOR'S NO. 1828626;

EXCEPT THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 10;
THENCE NORTH 89 DEGREES 39 MINUTES 39 SECONDS WEST 36.88 FEET ALONG THE SOUTH LINE OF SAID LOT;
THENCE 00 DEGREES 20 MINUTES 21 SECONDS EAST 5.70 FEET AT RIGHT ANGLE FROM SAID SOUTH LINE TO THE SOUTH FACE OF AN EXISTING BRICK WALL;
THENCE NORTH 89 DEGREES 23 MINUTES 54 SECONDS EAST 36.82 FEET ALONG SAID SOUTH FACE AND ITS EASTERLY EXTENSION TO THE EAST LINE OF SAID LOT;
THENCE SOUTH 00 DEGREES 16 MINUTES 40 SECONDS EAST 6.31 FEET TO THE POINT OF BEGINNING;

(ALSO KNOWN AS PARCEL A OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NUMBER 9504240077.)

SITUATE IN THE CITY OF TACOMA, COUNTY OF PIERCE, STATE OF WASHINGTON.

CC 6-13-13

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

File No. 17-116157

EXHIBIT 2



BAYVIEW®
LOAN SERVICING

Bayview Loan Servicing, LLC
4425 Ponce de Leon Blvd. 5th Floor
Coral Gables, FL 33146

January 08, 2019

DANICA A NIKOLICH
C/O DEAN B WEBB
515 E 39TH ST
VANCOUVER, WA 98663



1

Loan Number: 2361847

Property Address: 4629 NORTH MULLEN ST
TACOMA, WA 98407

Dear Customer:

**IMPORTANT: Your request for consideration for a short sale has been approved.
Here's what to expect next:**

I am pleased to inform you that Bayview Loan Servicing, LLC ("Bayview") has approved you for a Discounted Payoff on your property located at 4629 NORTH MULLEN ST , TACOMA, WA 98407 (the "Property") in the amount of **\$233,750.00** which is good through **02/22/2019 end of business day, the scheduled Closing Date**. This Discounted Payoff is null and void if the funds received by Bayview as of the Closing Date are less than the amount approved in this agreement.

Please be advised that this Discounted Payoff approval is on a one time basis and additional requests for approval may not be considered.

The terms of the Discounted Payoff offer are as follows:

• Settlement Date:	02/22/2019
• Sales Price:	\$275,000.00
• Borrower or Seller Credits:	\$0.00
• Borrower Contributions:	\$0.00
• Realtor Commissions:	\$16,500.00
• Taxes & Closing Costs:	\$23,465.02
• Third Party Fees:	\$1,284.98
• Subordinate Liens:	\$0.00
• Relocation Assistance:	\$0.00
• Net Proceeds to Bayview Loan Servicing:	<u>\$233,750.00</u>

In addition, notice of Closing is required within 48 hours of the scheduled Closing Date, to ensure the items listed below have been received and reviewed for approval:

- Final Settlement Statement with buyer and seller closing costs
- Pending receipt of copy of Buyer's prequalification letter OR source of funds dated within 90 days.

Refunds and Insurance Proceeds

Any refunds, taxes or any proceeds from any insurance that become due before the Discounted Payoff funds are paid to Bayview must be paid to Bayview in order to satisfy the loan.

Borrower warrants that he/she will not interfere with the investigation of any such Insurance claim. Borrower also warrants that any such borrower payment, insurance check, or tax refund referenced above that he/she receives, shall be immediately forwarded to Bayview. Bayview will also retain any funds that may currently be held in suspense and escrow accounts.

Attorney Fees

In the event that any party hereto brings suit for the collection of any damages resulting from, or the injunction of any action constituting, a breach of any terms or provisions of this Agreement or the Loan Documents, then the prevailing party shall be entitled to recover all reasonable court costs and attorneys' fees, at all levels.

Borrower agrees not to make any claim to any attorney fees and costs against Lender in the event there is a pending foreclosure case/action which is voluntarily dismissed by Lender as a result of this modification agreement or similar settlement reached between the parties. Borrower acknowledges that a voluntary dismissal by Lender under such circumstances shall not make the Borrower the prevailing party in such foreclosure action/case for the purposes of this section.

Foreclosure Sale/Law Day

If a foreclosure sale has been scheduled, funds must be received 48 hours prior to the foreclosure sale or by the required date indicated above, whichever is sooner. Upon receipt by Bayview of the Discounted Payoff Amount, Bayview will execute or cause to be executed a Release and Discharge of the debt and will dismiss or cancel any pending legal action it has taken to collect this obligation. No legal action will be halted until funds are received on or before the required date.

Further, upon receipt of the Discounted Payoff Amount, Bayview shall release and forever discharge Borrowers from any and all liability, of any kind whatsoever, arising out of, associated with, or related to, any obligations of the underlying debt agreement, promissory note, or loan agreement related to the loan number referenced above including, but not limited to, pursuit of any deficiency amount thereunder. Upon this release, the forgiven debt will be reported via the IRS Form 1099-C.

This Discount Payoff offer is valid only if borrowers sign a copy of this letter at the bottom of the next page under "Acknowledged and Accepted" and return it to my attention on or before 02/22/2019 end of business day. Please assure that funds are received by Bayview by the required date indicated in this letter. In addition, please send the executed closing documents, including the signed Settlement Statement by all parties to me.

Payment Information Use one of the following methods to send remittance to Bayview Loan Servicing:

Overnight Mail:

Bayview Loan Servicing, LLC
4425 Ponce de Leon Blvd., 5th Floor
Coral Gables, FL 33146

Wire Instructions*:

JP Morgan Chase
One Chase Manhattan Plaza
New York, NY 10005
ABA #: 021-000-021
Credit Account: Bayview Loan Servicing, LLC
Account No.: 447450847

**Fees may be imposed by money transmitter.*

Please include the following information on all remittance:

Borrower: DANICA A NIKOLICH
Bayview Loan Number: 2361847
Property Address: 4629 NORTH MULLEN ST , TACOMA, WA 98407

You Have Deed-in-Lieu Options

Deed-in-Lieu. If, during any time prior to the expiration date of this approval you are unable or no longer interested in completing the short sale, you may be able to convey ownership of your property to Bayview through a deed-in-lieu and satisfy the amount due on your first mortgage. While this action, called a Deed-in-Lieu of Foreclosure, will not allow you to keep your property, it will prevent you from going through a foreclosure sale and it will release you from all further responsibility for repaying the remaining mortgage debt. Additionally, provided you have complied with all other requirements, you or your tenant may be able to receive funds to help with moving expenses. Should you have any questions regarding the Deed-in-Lieu of Foreclosure process, please contact us.

In order successfully complete a Deed-in-Lieu of Foreclosure with Bayview the following additional steps must be completed:

- **All Occupants Must Vacate the Property and Leave the Property in Broom Clean Condition.** All occupants must provide clear and marketable title with a general warranty deed or local equivalent; vacate the property; and deliver to Bayview all the keys and controls, (e.g., garage door openers), by the expiration of this lien release approval letter ("Vacate Date"). Upon the Vacate Date, you must leave the Property in broom clean condition; all personal belongings must be removed and the Property left free of any and all interior and exterior trash, debris or damage. In addition, the yard must be left in a clean and neat condition. Further, in accepting the Deed-in-Lieu of Foreclosure option, you hereby agree to release Bayview from any and all liability regarding the removal and disposal of any possessions or materials left in or at the Property after the Vacate Date. You may be required to sign standard pre-closing documents as well as attend a closing of the conveyance of your property where all borrowers on the mortgage must be present.
- **Subordinate Lien Releases.** Bayview has the option of providing additional funds to be paid to subordinate lien holders in exchange for a release of liens on the Property. If you have these types of liens, please gather any paperwork you have (such as your last statement), and send it to us promptly. Remember, clearing these subordinate liens and delivering clear and marketable title is your responsibility and Bayview takes no responsibility for ensuring that subordinate lien holders avoid seeking enforcement of personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from any personal liability.

Sincerely,

Alan Williams

Alan Williams, Asset Manager
Bayview Loan Servicing, LLC
Phone Number: (855) 793-9459 Monday - Friday 9:00 a.m. - 6:00 p.m., ET
Fax Number: (305) 265-2529
E-mail: AlanWilliams@bayviewloanservicing.com

Disclaimers and Notices

In connection with your loss mitigation application, we may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your application is not approved. You can pay for an additional appraisal for your own use at your own cost.

Bayview Loan Servicing, LLC is a debt collector. This letter is an attempt to collect a debt and any information obtained will be used for that purpose. To the extent that your obligation has been discharged or is subject to an automatic stay of bankruptcy this notice is for compliance and informational purposes only and does not constitute a demand for payment or any attempt to collect such obligation. Bayview Loan Servicing, LLC., NMLS #2469.

Confirmed SII Disclaimer: If you are a confirmed successor in interest of the account, unless you assume the mortgage loan obligation under state law, you are not personally liable for the mortgage debt and cannot be required to use your own assets to pay the mortgage debt.



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The following mailing address must be used for all Error Notices & Information Requests: Bayview Loan Servicing, LLC, Customer Support, 4425 Ponce de Leon Boulevard, 5th Floor, Coral Gables, FL 33146.

ACKNOWLEDGED AND ACCEPTED:

By: _____ Date: _____
DANICA A NIKOLICH



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EXHIBIT 3



